UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EXADEL, INC., Plaintiff, -against- TOUCHTUNES CORPORATION, Defendant.	JUDGE ENGELMAYER Civil Action No.: 15-cv-________ **COMPLAINT** 15 CV 3545 Jury Trial Demanded

Plaintiff Exadel, Inc. ("Exadel"), as successor in interest to DineByte, LLC ("DineByte"), by its attorneys Manatt Phelps & Phillips LLP, for its Complaint against Defendant TouchTunes Music Corporation ("TouchTunes"), states as follows:

1. This action for breach of contract stems from TouchTunes's breach of a Professional Services Agreement (the "Agreement") entered into as of June 3, 2013 between TouchTunes and DineByte. The Agreement is attached to this Complaint as **Exhibit A**. Specifically, TouchTunes has violated Section 11 of the Agreement by failing to pay Exadel all amounts due and owing upon its termination of the Agreement.

PARTIES

2. Plaintiff Exadel is a software engineering company incorporated under the laws of the State of California with a principal place of business of 1340 Treat Blvd. Suite 375, Walnut Creek, California 94597. Pursuant to the Agreement, on April 21, 2014 TouchTunes consented to Exadel's assumption of all contractual rights and obligations of DineByte under the Agreement. A true and accurate copy of TouchTunes's consent is attached to this Complaint as **Exhibit B**. (DineByte and Exadel may at times be referred to herein as "Plaintiff").

3. Exadel is informed and believes, and on that basis alleges, that Defendant TouchTunes is an in-venue interactive music and entertainment platform, organized and existing under the laws of the State of Delaware, with its corporate offices located at 850 Third Avenue, Suite 15C, New York, New York 10022.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because there is complete diversity of citizenship between Exadel and TouchTunes and the amount in controversy exceeds $75,000.

5. Venue in this District is proper pursuant to Section 15(f) of the Agreement, which states: "Both parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction and venue of the State and Federal courts located in the State of New York for any legal controversy between the parties arising in connection with this Agreement." (**Ex. A**).

FACTS

6. Exadel is informed and believes, and on that basis alleges, that Defendant TouchTunes provides in-venue music through its portfolio of "smart jukeboxes," where patrons can select and pay for music to be played in a venue through a smartphone.

7. In 2013, TouchTunes engaged DineByte to provide software development and implementation services and related engineering services, including through DineByte's affiliate, FLLC DineByte, a Belarusian company based in Minsk.

8. Pursuant to that engagement, TouchTunes and DineByte entered into the Agreement, as of July 3, 2013, with an effective date as of June 10, 2013. (**Ex. A**).

9. Section 11(b) of the Agreement provides that "TouchTunes may terminate this Agreement for its convenience by giving Company [*i.e.*, Plaintiff] not less than ninety (90) days prior written notice to Company."

10. Section 11(e) of the Agreement requires TouchTunes to reimburse Plaintiff "upon demand for any additional costs incurred by Company [i.e., Plaintiff] to terminate the Company resources then providing the Services."

11. On April 9, 2015, TouchTunes sent a Termination Notice to Exadel. A true and accurate copy of the Termination Notice is attached hereto as **Exhibit C**.

12. Although TouchTunes referenced the 90-day termination provision in the Termination Notice, it has refused to make payments to Exadel for the 90-day termination period as required by the Agreement.

13. Instead, TouchTunes purported to rely upon a "Personnel Reduction" provision to terminate "each of the current resources providing services under the Agreement." (**Ex. C**). TouchTunes purported to rely on the "Personnel Reduction" provision in bad faith, in an effort to avoid paying Exadel pursuant to the termination provisions in Section 11 of the Agreement. TouchTunes has thus breached the Agreement.

14. TouchTunes's willful breach of the Agreement was undertaken to avoid its obligations under the Termination provisions of the Agreement, and has and will result in substantial damages to Exadel in the form of obligations owed to the former resources Exadel had retained on TouchTune's behalf, which exceeded more than forty (40) in number as of the date of purported termination.

15. The Agreement provides that "In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorney's fees." (**Ex. A ¶ 15(f)**).

FIRST CAUSE OF ACTION
(Breach of Contract)

16. Plaintiff repeats and restates each and every allegation contained in the prior paragraphs 1 through 15 of the Complaint with the same force and effect as if fully set forth herein.

17. TouchTunes and DineByte entered into the Agreement, which memorialized their mutual obligations with respect to services provided by DineByte to TouchTunes.

18. TouchTunes consented to the assumption and assignment to Exadel of all of DineByte's rights and obligations under the Agreement.

19. Exadel has performed all of its obligations under the Agreement.

20. TouchTunes intentionally and wrongly breached its obligation to pay Exadel from the date of its termination of the Agreement for a period of 90 days thereafter.

21. As a direct result of TouchTunes's breach, Exadel has been damaged in an amount to be determined at trial, but which exceeds four hundred thirty-five thousand dollars ($435,000).

22. Exadel is entitled to recover its consequential damages, attorneys' fees and costs, in addition to its actual damages.

DEMAND FOR RELIEF

Based on the foregoing, Plaintiff Exadel, Inc. demands judgment against Defendant TouchTunes Music Corporation as follows:

A. For an award of compensatory, incidental, and consequential damages in an amount to be determined at trial but in excess of four hundred thirty-five thousand dollars ($435,000);

B. For its reasonable attorneys' fees and costs pursuant to Paragraph 15(f) of the Agreement; and

C. For such further and additional relief as the Court deems just.

DEMAND FOR TRIAL BY JURY

Pursuant to Fed. R. Civ. P. 38(b), Exadel hereby demands trial by jury of all issues that may be so tried.

Dated: New York, New York
May 6, 2015

Respecfully submitted,

MANATT, PHELPS & PHILLIPS, LLP

By: [signature]

Kenneth D. Friedman
7 Times Square
New York, New York 10036
Telephone: (212) 790-4500
KFriedman@manatt.com

Shari Mulrooney Wollman
pro hac vice application to be filed
MANATT, PHELPS & PHILLIPS, LLP
11355 West Olympic Blvd.
Los Angeles, CA 90036
Telephone: (310) 312-4000
SWollman@manatt.com

Attorneys for Plaintiff Exadel, Inc.

EXHIBIT A

Execution Copy

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("**Agreement**") is made and entered into as of July 3, 2013, to be effective as of June 10, 2013 ("**Effective Date**"), by and between TouchTunes Music Corporation, a corporation organized and existing under the laws of Delaware, and having its corporate offices located at 850 Third Avenue, Suite 15C, New York, NY 10022 ("**TouchTunes**"), and DineByte, LLC, a company organized and existing under the laws of Delaware, having its corporate offices located at 1136 Tanglewood Way, San Mateo, CA 94403 ("**Company**"). For purposes of this Agreement, "**Affiliate**" means any person or entity directly or indirectly controlling, controlled by or under common control with another person or entity.

INTRODUCTION
Company is engaged in, among other things, the business of providing software development and implementation services and related engineering services ("**Services**") including, without limitation, through its Affiliate, FLLC DineByte, a Belarusian company having offices at 220035, Belarus, Minsk, Timiryazeva 65 B, office 612 (the "**Authorized Affiliate**").

TouchTunes wishes to engage Company on a non-exclusive basis to provide such Services, subject to and in accordance with the terms and conditions of this Agreement.

AGREEMENT
For and in consideration of the mutual obligations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. GENERAL OBLIGATIONS.

(a) No Conflicting Obligations. Company represents and warrants that Company is not under any pre-existing obligation which is inconsistent with this Agreement or which would restrict or conflict with the performance of Company's obligations under this Agreement. Company shall not enter into any arrangement which would impose any obligation inconsistent with this Agreement, or which would restrict or conflict with the performance of Company's obligations hereunder.

(b) Compliance with Laws and Other Standards. In providing the Services, Company shall comply with, and shall ensure that its Affiliates comply with, all applicable laws, rules, regulations, ordinances and governmental orders, and shall adhere to the highest professional and ethical standards applicable to Company's and its Affiliates' businesses. Without limiting the generality of the foregoing, Company warrants that it shall, and shall cause the Authorized Affiliate to, comply with all labor laws in those countries where the Services are being performed, including without limitation equal employment opportunity and non-discrimination requirements prescribed by local laws and regulations. TouchTunes may from time to time request Company to provide TouchTunes or TouchTunes' representatives with evidence of the satisfaction of any and all of Company's and the Authorized Affiliate's labor obligations applicable in such countries.

(c) Non-Solicitation. During the Term (as defined in Section 11(a)) and during the one (1) year period following expiration or termination of this Agreement for any reason, Company shall not, and shall ensure that its Affiliates do not, knowingly solicit for employment any of the employees of TouchTunes or any of its Affiliates. During the Term and during the one (1) year period following expiration or termination of this Agreement for any reason, TouchTunes shall not knowingly solicit for employment any of the employees of Company or Authorized Affiliate that have directly participated in the performance of Services, as shown in the invoices referenced in Section 4 below. Notwithstanding the foregoing, neither party nor its Affiliates shall he prohibited from soliciting or hiring an employee that responds to a general employment advertisements and/or solicitations (whether on the Internet or otherwise).

(d) Provision of Financial Information. Company shall promptly inform TouchTunes in writing of any material adverse change in its financial condition or prospects. Company represents and warrants that any financial statements or other information it has furnished or will furnish to TouchTunes are and will be true and correct and shall accurately reflect the financial condition of Company and its business for the periods and as of the dates indicated. TouchTunes shall promptly inform Company in writing of any material adverse change in its financial condition or prospects. TouchTunes represents and warrants that any financial statements or other information it has furnished or will furnish to Company are and will be true and correct and shall accurately reflect the financial condition of TouchTunes and its business for the periods and as of the dates indicated.

(e) Exclusivity. Company agrees that during the Term and for a period of six (6) months after Company ceases to provide the Services to TouchTunes, neither Company nor its Affiliates shall, directly or indirectly, for Company's or such Affiliates' own account or as an employee, officer, director, partner, joint venture, shareholder, investor, contractor, consultant or otherwise (except as an investor in a corporation whose stock is publicly traded and in which Company holds less than 3% of the outstanding shares) engage with, or other provide services, to (i) any business that develops, manufactures, or sells digital jukeboxes, or (ii) any business that develops, manufactures, or sells any interactive entertainment devices (other than devices marketed for personal use at home and in other non-public places) to any restaurant, bar or other commercial establishment, which device may include gaming, music and other amusement offerings.

2. SERVICES.

(a) Services. Subject to and in accordance with the terms and conditions of this Agreement, in its performance of the Services, Company shall assign a sufficient number of dedicated, qualified Company and Authorized Affiliate staff to perform such software development, implementation, and other engineering services, assignments, and projects as may be requested from time to time during the Term by TouchTunes. While such Company and Authorized Affiliate staff will be directed on a day-to-day basis by TouchTunes employees (or in such other manner(s) as may be mutually agreed upon by the parties from time to time during the Term), Company expressly acknowledges and agrees that, with respect to the Services hereunder, Company and Authorized Affiliate staff shall remain employees of Company and Authorized Affiliate, respectively. Except as otherwise mutually agreed upon in a separate writing signed by both parties, Company will utilize and pay for Company's and its Authorized Affiliate's, and its and their respective employees' own work facilities (including without limitation, office space), materials, tools, equipment and administrative support services necessary for Company to perform the Services.

(b) Equipment. TouchTunes will provide to Company any TouchTunes specific equipment necessary for Company to perform the Services, including any TouchTunes tablet devices (“**TT Equipment**”), provided that Company shall be responsible for any damage to, or loss or theft of, any such TT Equipment, other than ordinary wear and tear, while such TT Equipment is in Company’s possession. Upon the request of TouchTunes at any time or upon completion of the applicable Services with respect to the TT Equipment or otherwise upon termination of this Agreement, Company shall return the TT Equipment to TouchTunes as directed by TouchTunes.

(c) Performance of Services. Company shall, itself and through Authorized Affiliate, perform the Services in a good and workman-like manner consistent with the highest industry standards. Specific Services (including without limitation, the completion of specific projects and the delivery of specific Work Product (as defined in Section 7.a) requested by TouchTunes from time to time during the Term (each, a "**Deliverable**" and collectively, the "**Deliverables**")) will be completed within the time period(s) specified by TouchTunes and in accordance with the specifications applicable to such Services and Work Product, as specified from time to time by TouchTunes (the "**Specifications**"). Time will be of the essence with respect to the Services. Company will comply with, and will ensure that the Authorized Affiliate complies with, any requests for inspection of the Services and Deliverables as notified by TouchTunes. If any Deliverable is delayed for any reason, Company will use its best efforts, and will ensure that the Authorized Affiliate uses its best efforts, to recover lost time.

(d) Compensation. Company shall report as income all compensation received pursuant to this Agreement. Company shall be solely responsible for payment of any income taxes, social security taxes, unemployment or disability insurance charges or other charges or taxes or similar items in connection with Company's performance of the Services (which includes the performance of the Services by the Authorized Affiliate). Company shall indemnify and hold harmless TouchTunes to the extent of any obligation imposed by law on TouchTunes to pay any of such charges, taxes; or similar items in connection with Company's performance of the Services. Notwithstanding anything set forth herein to the contrary, and for the avoidance of doubt, Company, and not TouchTunes, shall be solely responsible for payment of any and all amounts payable to Authorized Affiliate in connection with this Agreement.

(e) Work Days. Unless otherwise requested by TouchTunes, each resource assigned to provide Services to TouchTunes shall work a minimum of 60 days (a day is defined as at least 8 hours) per quarter, and 240 days per year, subject to any compulsory statutory holidays, pro-rated based on a resource’s start date. In the event that the actual number of days worked is lower than the quarterly and/or yearly minimum (as may be prorated), Company shall make a corresponding credit adjustment to TouchTunes in the following billing period. Prior to the start of Services, and annually in January of each year of the Term thereafter, Company shall provide TouchTunes with a list of dates for the applicable statutory holidays in Belarus for such year and such statutory holidays shall not exceed ten (10) days. Such holidays shall have been taken into account in the minimum work days set forth above and are not in addition to such days. Unless otherwise requested by TouchTunes, Company's resources shall generally provide Services based on local time in Minsk, Republic of Belarus, but shall use reasonable efforts to be available, as requested, at the beginning and/or end of the work day for conference calls and other communications with TouchTunes (based on local time in San Francisco, California, USA). Company shall provide as much advance notice as reasonably practicable to TouchTunes of any planned absences of resources, provided that in the case of any vacation of more than three (3) consecutive business days such notice shall be least thirty (30) days.

(f) Part Month. In the event a resource commences or permanently ceases providing Services for TouchTunes part way through a calendar month, then such resource will be billed at, and TouchTunes agrees to pay, a prorated monthly rate for that calendar month that shall be based on the number of days the resource actually performed Services for TouchTunes in such calendar month. This shall also apply to resources that are on extended absences of over one week for illness, incapacity or other issues that prevent their provision of Services.

(g) Personnel Reduction. TouchTunes may terminate or otherwise reduce any then current resource by giving written notice to Company no less than twenty-eight (28) days prior to the date on which such reduction or termination shall apply or in lieu of such notice pay Company the then current rate for such resource during any notice period of less than twenty-eight (28) days. However, such notice period shall not be required to the extent TouchTunes is dissatisfied, in its reasonable judgment, with the performance level of a resource. In such a case, TouchTunes shall provide written notice thereof to Company detailing the insufficiencies and upon receipt of such notice, Company shall remove such resource from TouchTunes' projects and a replacement resource shall be promptly placed onto the TouchTunes' team, but in no event later than twenty (20) days from the date of the removal of the departing resource. To the extent there is overlap between the departing resource and the incoming resource, Company shall only charge TouchTunes for the incoming resource.

(h) Non-Exclusive. TouchTunes shall be entitled to use other service providers for the Services, which service providers may be in competition with Company.

3. SUPERVISORY REPRESENTATIVE: LOAN OF PROPERTY.

(a) Supervisory Representative. At all times during the Term, Company shall appoint and identify to TouchTunes a supervisory representative who shall be responsible for coordinating Company's performance of the Service and maintaining a liaison with TouchTunes contact person designated by TouchTunes from time to time. Company's initial supervisory representative will be Joseph Wayne Ram, COO of Company. Either party may change its supervisory representative from time to time during the Term by providing written notice to TouchTunes.

(b) Loan of Property. From time to time, TouchTunes may (but shall not be obligated to) provide Company or Authorized Affiliate with TouchTunes-owned property

("**TouchTunes Property**") for use in performing the Services. Company and Authorized Affiliate may use TouchTunes Property only for the purposes set forth in this Agreement. Company shall, and shall cause the Authorized Affiliate to, return all TouchTunes Property to TouchTunes upon the completion of the applicable Services or earlier at TouchTunes' request in the same condition in which it was provided, excepting normal wear and tear.

(c) Status Reports. Unless otherwise agreed to by TouchTunes, in writing, Company shall, at no additional charge, submit to TouchTunes' designated representative every week during the Term of this Agreement written status reports fully describing Company's activities and accomplishments during the preceding week, in order to timely report Company's continuous involvement in the tasks pursuant to this Agreement and in order to direct timely corrective action as necessary. The status reports will include, but will not necessarily be limited to, the following:

i. Current status of Company's provision of services for TouchTunes under this Agreement together with an explanatory narrative when appropriate.

ii. Indication of the progress of the Services being performed by Company, as that progress relates to all of the projects involved.

iii. Resources used by Company for each project since the date of the last report, as well as a cumulative total to date.

iv. Identification of actual and anticipated problem areas for each applicable project, the impact of said problem areas on Company's provision of the Services, and the present action being taken (or suggested alternative action steps to be taken) in order to reduce the impact of such problems.

(d) Status Meetings. If TouchTunes so requests, Company shall hold status meetings with TouchTunes management in order to review the status of Company activities under this Agreement, at no additional cost.

4. FEES; PAYMENTS.

(a) Fees. Unless otherwise expressly agreed upon by the parties in writing, the fees for the Services shall be billable by Company on the 1st and the 15th of every month on basis and at the rates by personnel level set forth on Exhibit A to this Agreement. The resources assigned to TouchTunes as of the date of this Agreement are set forth on Exhibit B to this Agreement. A resource may not be progressed to a higher personnel level during the first six (6) months of the commencement of the Services by such resource and then only upon 30 days prior written notice, provided that TouchTunes has the right to request a replacement at the then current personnel level prior to any progression. Company shall submit to TouchTunes semi-monthly invoices specifying the hours during which Company and Authorized Affiliate performed the Services for the prior period and the resulting fees owing to Company. Each such invoice shall also provide details of any actual expenses incurred by Company (including without limitation, through Authorized Affiliate) in connection with the performance of the Services. Invoices are due net thirty (30) days from receipt by TouchTunes.

(b) Expenses. TouchTunes shall reimburse Company for actual expenses incurred by Company in the performance of the Services, provided that a duly authorized representative of TouchTunes expressly approves such expenses in writing before the expenses are incurred. All invoices submitted to TouchTunes for Services will be in the form prescribed by TouchTunes from time to time. Subject to TouchTunes' review and approval, TouchTunes will pay undisputed fees from each invoice within thirty (30) days after receipt. TouchTunes makes no representation or warranty as to the number of billable hours comprising the Services, or as to the amount of revenue that Company may receive as a result of its performance hereunder.

(c) Taxes. The Parties' respective responsibilities for Taxes (which includes all current or future taxes, levies, imposts, deductions, duties, withholdings, assessments or other charges of whatever nature imposed by any government, including, without limitation, income, excise, property, sales, use, ad valorem, or value added taxes) arising under or in connection with this Agreement shall be as follows (i) each Party shall be responsible for its own income Taxes and for any sales, use, and property Taxes, stamp duty or other such Taxes on equipment, software or property it owns or leases from a third party, (ii) Company shall be responsible for all sales, service, value added, lease, use, personal property, excise, consumption, and other Taxes and duties, including VAT, payable by Company on any goods or services used or consumed by Company in providing the Services (including services obtained from the Authorized Affiliate) where the Tax is imposed on Company's acquisition or use of such goods or services and the amount of Tax is measured by Company's costs in acquiring or procuring such goods or services and not by TouchTunes's cost of acquiring such goods or services from Company and (iii) Company shall be responsible for all Taxes assessed against either Party or the Authorized Affiliate on the provision of the Services, or on the provision of any particular Service, received by TouchTunes.

5. QUALIFICATION OF PERSONNEL.

(a) Qualification of Personnel. Company will verify the work history and work authorization of its personnel and of the personnel of the Authorized Affiliate pursuant to applicable government regulations before performing the Services. If appropriate for the Services, Company will also verify education degree or certification if required by TouchTunes.

(b) Approval of Personnel. TouchTunes retains the right of final approval regarding any personnel used by Company or the Authorized Affiliate, and TouchTunes, in its sole discretion, may refuse to allow any such personnel to commence an assignment or project, or continue to perform the Services for any non-discriminatory reason. In addition, TouchTunes may, at any time, request that any personnel providing Services under this Agreement be replaced at any time. If TouchTunes request a change of personnel or if an assigned resource leaves Company, Company agrees to replace such personnel within a reasonable amount of time and shall not charge TouchTunes a fee for such replacement for the time reasonably necessary to learn the TouchTunes' business, provided that such period shall not exceed the first two (2) weeks of such replacement's work for TouchTunes.

(c) Subcontractors. Notwithstanding anything set forth to the contrary in this Agreement, Company shall not use any subcontractors or any Company Affiliate other than the Authorized Affiliate in connection with its performance hereunder without TouchTunes' express prior written consent; in the event that Company receives any such consent from TouchTunes, Company agrees that all references in this Agreement to Authorized Affiliate shall also apply to such other approved Company Affiliate.

(d) Conduct of Personnel. Company will be fully responsible for the proper conduct and appearance of its personnel and of the personnel of the Authorized Affiliate while on TouchTunes or a TouchTunes customer's premises. Prior to Company's assignment of any personnel to perform Services, Company agrees to take appropriate preventive steps that it reasonably believes shall ensure that such personnel shall not engage in inappropriate conduct while on TouchTunes' or a TouchTunes customer's premises. Inappropriate conduct shall include, without limitation: (i) being under the influence of, or affected by, alcohol, illegal drugs or controlled substances; (ii) the manufacture, use, distribution, sale, or possession of alcohol, illegal drugs, or any other controlled substances, except for approved medical purposes; (iii) the possession of a weapon of any sort ; and (iv) harassment, threats, or violent behavior.

(e) Compliance with Requirements. Company (including without limitation, its servants, agents and employees) will not, and shall ensure that Authorized Affiliate (including without limitation, its servants, agents and employees) will not, without TouchTunes' prior permission, enter any part of TouchTunes' premises other than as strictly necessary in connection with the performance of the Services. Company (including without limitation, its servants or agents or employees), when present on the premises of TouchTunes, will comply with all rules, regulations and requirements (including without limitation, those relating to security arrangements) in force for the conduct of personnel on those premises. TouchTunes may refuse entry to TouchTunes' premises for security or other reasons to any person in its absolute discretion. If in the opinion of TouchTunes, Company (including without limitation, any Company employee, servant or agent) fails to properly conduct itself or becomes incapable of efficiently performing its duties, Company (including without limitation, its employees, servants and agents) shall leave, and shall ensure that Authorized Affiliate (including without limitation, its employees, servants and agents) leave, TouchTunes' premises immediately upon request.

(f) Company Indemnity. Company shall indemnify and hold harmless TouchTunes, its Affiliates, and its and their directors, officers, agents, representatives, employees, successors and assigns against any and all losses, claims, damages, costs, charges, expenses, liabilities, demands, proceedings and actions which they (or any of them) may sustain or incur, or which may be brought or established against them (or any of them) as a result (whether direct or indirect, and whether wholly or in part) of or arising from: (i) any breach of this Agreement by Company or its Affiliates or its or their employees, agents or subcontractors; or (ii) any act or omission of Company or its Affiliate or its or their employees, agents or subcontractors in the performance of Company's obligations under this Agreement.

(g) TouchTunes Indemnity. TouchTunes shall indemnify and hold harmless Company, its Affiliates, and its and their directors, officers, agents, representatives, employees, successors and assigns against any and all losses, claims, damages, costs, charges, expenses, liabilities, demands, proceedings and actions which they (or any of them) may sustain or incur, or which may be brought or established against them (or any of them) as a result (whether direct or indirect, and whether wholly or in part) of or arising from: (i) any breach of this Agreement by TouchTunes or its Affiliates or its or their employees, agents or subcontractors; or (ii) any act or omission of TouchTunes or its Affiliate or its or their employees, agents or subcontractors in the performance of TouchTunes' obligations under this Agreement.

6. WARRANTY.

(a) Acceptance. The Services and related Deliverables will be presented to TouchTunes by Company for acceptance by the dates specified from time to time by TouchTunes, or as otherwise mutually agreed in writing by the parties. As applicable, TouchTunes may carry out acceptance tests to determine whether the Services and Deliverables meet the applicable Specifications and other applicable criteria specified by TouchTunes for the applicable Services and Deliverables and are free from defects. If the Services and the Deliverables are not accepted, TouchTunes will have the following options: (i) reject the Services and Deliverables; (ii) accept the Services and Deliverables at a reduced price; or (iii) require Company to remedy any defect(s) and re-present the Services and Deliverables for acceptance, in which case the Company will carry out all necessary remedial work at Company's sole expense and re-submit for acceptance within an agreed time period.

(b) Warranty. Company warrants that each of the Deliverables shall meet the Specifications and other criteria set by TouchTunes from time to time and shall be free from defects for a period of ninety (90) days from the date of acceptance of the Deliverables under Section 6(a) above (such period referred to herein as the "**Warranty Period**"). If, during the Warranty Period, it is determined that the Deliverables fail to meet the Specifications and applicable criteria or contain defects, then Company shall use best efforts, and shall ensure that the Authorized Affiliate uses its respective best efforts, to remedy such failure or defect and make such modifications, additions or adjustments to the Deliverables as may be necessary so that the Deliverables meet the Specifications and other applicable criteria and are free from defects. Such services shall be provided without charge to TouchTunes. Any corrected Deliverable shall be subject to an additional 90-day warranty period under this Section 6(b).

(c) No Viruses or Disabling Code. Company represents, warrants and covenants that the Services and Deliverables shall be delivered to TouchTunes free of (i) any instructions, devices or techniques installed by Company, or Company's employees or subcontractors, that can or were designed to threaten, infect, assault, vandalize, defraud, disrupt damage, disable, alter, inhibit or shut down the services, deliverables and/or TouchTunes' processing environment or TouchTunes' products or services, other software programs, data and libraries or otherwise prevent TouchTunes from utilizing the services and/or deliverables as intended (hereinafter a "**Virus**"), (ii) any instructions or code intended by Company to limit the use of such services and/or deliverables to a particular CPU or CPUs or to cause the Services to cease functioning (a "**Disabling Device**"), or (iii) any instructions or code intended by Company to allow access to TouchTunes' computing systems without TouchTunes' knowledge or in accordance with TouchTunes' system connectivity policies or procedures describing TouchTunes' system security measures (a "**Trap Door**").

(d) System Security. Company represents, warrants, and covenants that at all times during the Term: (i) all Company connectivity to TouchTunes computing systems and/or networks and all attempts at same shall be only through TouchTunes' security gateways and only through TouchTunes approved security procedures; (ii) Company will not access, and will not permit unauthorized persons or entities to access, TouchTunes computing systems and/or networks without TouchTunes' express written authorization and any such actual or attempted access shall be consistent with any such authorization; (iii) Company will use the latest available, most comprehensive Virus detection and scanning program as specified by TouchTunes prior to any attempt to access any of TouchTunes' computing systems and/or networks and upon detecting a Virus, all attempts to access TouchTunes' computing systems and/or networks shall immediately cease and shall not resume until any such Virus has been eliminated. Company shall notify TouchTunes immediately if it suspects, reasonably believes or becomes aware of the existence of any Viruses, Disabling Devices or Trap Doors, or if it becomes aware of any violations or breaches of the above commitments; and (iv) Company will use all commercially reasonable efforts to establish, maintain, and comply with administrative, technical, and physical safeguards that are designed to protect the security and integrity of Company's network and systems and TouchTunes Confidential Information, and shall carry out all specific security requests made by TouchTunes, including any data encryption requirements. Company shall also notify TouchTunes immediately if it identifies any elements of the deliverables and/or services that would make such deliverables/services susceptible to known viruses.

(e) FCPA. Company further represents and warrants that it is aware of and familiar with the provisions of the Foreign Corrupt Practices Act of 1977, as amended by the Omnibus Trade and Competitiveness Act of 1988 ("**FCPA**") and the International Antibribery and Fair Competition Act of 1998 ("**IAFCA**"), and their purposes and will take no action and make no payment in violation of, or which might cause Company or TouchTunes to be in violation of, the FCPA and/or IAFCA. Company further represents and warrants that no person employed by it in connection with the performance of its obligations under this Agreement is an official of the government of any foreign country, or of any agency thereof, and that no part of any moneys or consideration paid hereunder shall accrue for the benefit of any such official. Notwithstanding anything to the contrary, if Company takes any action that could constitute a violation of the FCPA or IAFCA, TouchTunes may, at its sole option, immediately terminate this Agreement and/or any Statement of Work issued hereunder. Furthermore, for purposes of reasonably ensuring compliance with the FCPA and the IAFCA, Company agrees that, upon request by TouchTunes at any time during the term of this Agreement, Company will make available for audit by an accounting firm designated by TouchTunes which is reasonably acceptable to Company, Company's books, records and other documentation relevant to its business activities conducted pursuant to this Agreement. The accounting firm shall provide to TouchTunes only such information obtained from such review that relates to a possible violation of the FCPA and the IAFCA. TouchTunes shall pay any and all costs of any such requested audit.

(f) Export Control. The parties each hereby agree to comply with all export laws and restrictions and regulations of the United States, Canada, the Republic of Belarus or any other applicable foreign agency or authority, and not to export, or allow the export or re-export of, any proprietary information or software or any copy or direct product thereof in violation of any such restrictions, laws or regulations, or without all required licenses and authorizations. Each party represents, warrants and covenants that the Services and/or the Deliverables do not contain any encryption technology (such as DES), which is subject to export restrictions by the United States government.

7. INTELLECTUAL PROPERTY RIGHTS.

(a) Work Product. "**Work Product**" means models, devices, reports, computer programs, tooling, schematics and other diagrams, instructional materials, and anything else Company and Authorized Affiliate and their agents, employees and subcontractors produce in connection with the Services. All Work Product are service works/works made for hire and will be owned by TouchTunes. Company, its agents, employees and subcontractors will, and will ensure that Authorized Affiliate and their respective agents, employees and subcontractors will, deliver all Work Product to TouchTunes upon the expiration or termination of this Agreement and/or at any time and from time to time upon TouchTunes' request. For the avoidance of doubt (and without limitation of the foregoing), Company, on behalf of itself and Authorized Affiliate, hereby irrevocably assigns to TouchTunes any all current and future right, title and interest throughout the world and for the full duration of such rights in, to and under the Work Product and any component thereof. In addition to (and without limitation to) the foregoing, to the extent that any such assignment (including without limitation, any intellectual property embedded in, or associated with, the Work Product) is prohibited in whole or in part for any reason, Company, on behalf of itself and Authorized Affiliate, hereby grants to TouchTunes and its Affiliates an exclusive, perpetual, irrevocable, royalty-free and worldwide license to use and to sublicense such intellectual property for the entire term of protection. At the request of TouchTunes from time to time, Company will execute, and will ensure that Authorized Affiliate executes, any and all documents and will take, and will cause Authorized Affiliate to take, any and all measures as may be necessary or otherwise requested by TouchTunes to evidence TouchTunes' ownership of the Work Product (or any portion thereof), and to effectuate the assignments and licenses described in this Section 7.a, and to safeguard TouchTunes' intellectual property rights in and to the Work Product.

(b) Inventions. Company will promptly disclose to TouchTunes any inventions, utility models, mask works or topologies of integrated circuits made in connection with the Services. Company, on behalf of itself and Authorized Affiliate, hereby agrees that TouchTunes will have the sole right to be the holder of all associated patents and registrations and will own all intellectual property rights in such inventions, utility models, mask works and topologies of integrated circuits. Company will, and will cause Authorized Affiliate to, sign all necessary documents and otherwise assist TouchTunes, at TouchTunes' expense, in obtaining patents or registrations and otherwise protecting such inventions, utility models, mask works and topologies of integrated circuits in any country.

(c) Works of Authorship. Company will promptly disclose to TouchTunes any works of authorship created in connection with the Services, and Company on behalf of itself and Authorized Affiliate hereby assigns to TouchTunes all copyrights in such works. To the extent permitted by law, Company, on behalf of itself and Authorized Affiliate, waives any moral rights or personal non-ownership rights, such as the right to be named as author, the right to modify, the right to prevent mutilation and the right to prevent commercial exploitation, whether arising under the Berne Convention or otherwise. Company will, and will cause Authorized Affiliate to, sign any necessary documents and otherwise assist TouchTunes, at

TouchTunes' expense, in registering TouchTunes' copyrights and otherwise protecting TouchTunes' rights in such works in any country.

(d) Pre-Existing Intellectual Property. "**Pre-Existing Intellectual Property**" means any trade secret, invention, work of authorship, mask work or protectable design that has already been conceived or developed by anyone other than TouchTunes before Company renders any Services. Company will not, and will ensure that Authorized Affiliate does not, use any Pre-Existing Intellectual Property in connection with the Services unless Company: (i) specifically discloses such Pre-Existing Intellectual Property to TouchTunes in writing prior to such use; and (ii) Company or Authorized Affiliate has the right to use such Pre-Existing Intellectual Property for TouchTunes' benefit. If Company or Authorized Affiliate is not the owner of such Pre-Existing Intellectual Property, Company or Authorized Affiliate, as applicable, will obtain from the owner of such Pre-Existing Intellectual Property any rights necessary to enable Company to comply with this Agreement. If Company or Authorized Affiliate uses any Pre-Existing Intellectual Property in connection with the Services, Company on behalf of itself and Authorized Affiliate hereby grants TouchTunes a non-exclusive, royalty-free, worldwide, irrevocable, perpetual license to make, have made, sell, use, reproduce, modify, adapt, display, distribute, make other versions of and disclose the Pre-Existing Intellectual Property and to sublicense others to do these things.

(e) Notice. Company shall immediately give TouchTunes written notice if at any time Company knows of any third-party claim to any intellectual property provided by Company to TouchTunes in connection with the Services. TouchTunes shall immediately give Company written notice if at any time TouchTunes knows of any third-party claim to any intellectual property provided by TouchTunes to Company in connection with the Services.

(f) Infringement Indemnity. Company will, and will cause its Affiliate to, defend, indemnify and hold harmless TouchTunes from all claims, losses, liabilities, damages, costs and expenses (including without limitation, attorneys' and expert witnesses' fees) suffered by reason of any third-party claim: (x) to ownership of, or any interest in, the Services or any Deliverable, or (y) that any portion of any such Services or any Deliverables, including any claim made or any suit or proceeding brought against TouchTunes, insofar as it is based on an allegation that any portion of the Services or Deliverable infringes or violates any patent, copyright, trademark, trade secret, utility model, industrial design, mask work, moral right or other intellectual property right. If use of the Services or Deliverable, or any part thereof, is enjoined, Company will, at its sole expense, and at TouchTunes' option, either: (i) procure for TouchTunes the right to continue using the Services or Deliverable; (ii) replace the Services or Deliverable with a non-infringing version or equivalent function and performance; or (iii) modify the Services or Deliverable to be non-infringing without detracting from function or performance.

(g) Compliance by Affiliates. Etc. Company expressly agrees to take all steps necessary to ensure compliance with this Section 7 by the Authorized Affiliate and Company's and Authorized Affiliate's agents, employees and subcontractors (including without limitation, those agents, employees and subcontractors performing Services outside of the United States).

8. CONFIDENTIAL INFORMATION.

(a) Definition. As used herein, "**Confidential Information**" shall mean any and all information disclosed by TouchTunes to Company or to any Company Affiliate in connection with this Agreement (including, without limitation, any idea, discovery, development, invention, know-how, information, procedure, technique, algorithm, data, material, document, notes, manual, report, study, photograph, specification, sketch, drawing, design, schematic, prototype, produce, source code, research, customer list, customer information, price list, product description, business plan, marketing plan, strategy, financial information, or work in process), whether such information is in oral written, graphic or electronic form and whether such information is disclosed before, on or after the Effective Date.

(b) Use and Disclosure. Company and Authorized Affiliate: (i) shall treat all Confidential Information as strictly confidential; (ii) shall not disclose the Confidential Information to any third party, nor disclose to any third party the fact that Company has received the Confidential Information; (iii) shall use the same care which a reasonable person under similar circumstances would use, which shall be no less than the care TouchTunes uses to prevent the disclosure of the Confidential Information; and (iv) shall use the Confidential Information solely for the purpose of providing the Services to TouchTunes, and not for any purpose detrimental to TouchTunes. Company shall, and shall cause its Affiliates to, immediately upon the request of TouchTunes: (l) return to TouchTunes all Confidential Information received from TouchTunes, including all copies thereof made by Company; (2) destroy all materials incorporating or based on the Confidential Information which were prepared by Company; and (3) certify to TouchTunes in writing that it has complied with the provisions of this paragraph.

(c) Exceptions. The obligations set forth in Section 8(b) shall not apply to any Confidential Information: (i) which TouchTunes expressly agrees in writing is free of any nondisclosure obligations: (ii) which at the time of disclosure to Company or a Company Affiliate, was known to Company or its applicable Affiliate (as evidenced by documentation in Company's or such Affiliate's possession) free of any nondisclosure obligations; or (iii) which is or becomes generally available to the public without any breach of this Agreement or unauthorized disclosure of the Confidential Information by Company or any of its Affiliates.

(d) No License. All Confidential Information shall remain the property of TouchTunes, and nothing contained in this Agreement shall be construed as granting or conferring any rights by license or otherwise in any Confidential Information.

(e) No Warranties. TouchTunes shall not be deemed to make any representation, warranty, assurance or guarantee with respect to any Confidential Information disclosed hereunder, including without limitation any representation or warranty of merchantability, fitness for a particular purpose, or non-infringement of intellectual property or other rights of third parties.

(f) Publicity. Each party agrees not to publicize or disclose the existence or terms of this Agreement (including the billing rates that Company charges TouchTunes) to any third party, without the prior written consent of the other, except as may be required by law or legal process. In particular, no press releases shall be made without the mutual consent of the parties. In addition, neither Company nor its directors, officers and employees, shall publish or disseminate any commercial advertisements, press releases, opinions or feature articles or communications to customers or prospective customers using the name, logo, trademark or any other symbol of TouchTunes or any TouchTunes customer without the prior written consent of TouchTunes.

(g) Compliance by Affiliates. Company expressly agrees to take all steps necessary to ensure compliance with this Section 8 by its Affiliates and Company's and its Affiliates' agents, employees and subcontractors (including without limitation, those agents, employees and subcontractors performing Services outside of the United States). Neither Company's nor Authorized Affiliate's duties and obligations under this Agreement (including without limitation, this Section 8) shall be diminished or otherwise affected in any manner whatsoever in the event that TouchTunes elects in its sole discretion to directly enter into one or more written confidentiality/non-disclosure agreements with employees of Company or any of Company's Affiliates (including without limitation, Authorized Affiliate); Company shall use reasonable efforts to facilitate the execution of any such agreements at the request of TouchTunes from time to time. All of the obligations under this Agreement shall apply equally to any Authorized Affiliate who is involved in providing the Services and/or Deliverables to TouchTunes. Company shall ensure that all Authorized Affiliates involved in providing the Services and/or Deliverables comply with the terms and conditions of this Agreement and Company shall be fully responsible and liable for such Authorized Affiliates.

9. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT: (l) TOUCHTUNES SHALL NOT BE LIABLE FOR ANY EXEMPLARY, SPECIAL, PUNITIVE, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION, LOST PROFITS), EVEN IF TOUCHTUNES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; (2) TOUCHTUNES SHALL NOT BE LIABLE FOR ANY CLAIMS OF THIRD PARTIES RELATING TO ANY SERVICES PROVIDED BY COMPANY HEREUNDER AND COMPANY SHALL DEFEND TOUCHTUNES FROM AND INDEMNIFY TOUCHTUNES AGAINST ALL SUCH CLAIMS; AND (3) IN NO EVENT SHALL TOUCHTUNES' CUMULATIVE LIABILITY UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE AMOUNTS PAID BY TOUCHTUNES TO COMPANY UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE A CLAIM IS MADE. THE LIMITATIONS ON TOUCHTUNES' LIABILITY SET FORTH IN CLAUSES (2) AND (3) OF THIS SECTION 9 SHALL NOT APPLY TO LIABILITY FOR DEATH, PERSONAL INJURY OF A PHYSICAL NATURE OR DAMAGE TO TANGIBLE PROPERTY CAUSED BY TOUCHTUNES' NEGLIGENCE OR INTENTIONAL MISCONDUCT. THE LIMITATIONS OF LIABILITY CONTAINED IN THIS SECTION 9 ARE A FUNDAMENTAL PART OF THE BASIS OF TOUCHTUNES' BARGAIN HEREUNDER, AND TOUCHTUNES WOULD NOT ENTER INTO THIS AGREEMENT ABSENT SUCH LIMITATIONS.

10. AUDIT

(a) Company Audit. TouchTunes' internal and external auditors and attorneys will have the right to examine all records and materials of Company pertaining to the deliverables and services provided under this Agreement.

(b) Audit Findings. Following any audit or examination, Company shall, at TouchTunes' request, conduct a review conference with TouchTunes in order to confirm factual concurrence with issues identified in the audit or examination. At TouchTunes' request, Company shall furnish TouchTunes with copies of any of Company's external audit reports as they relate to the deliverables or services provided under this Agreement. Upon TouchTunes' request, Company and TouchTunes shall meet to review each audit report promptly after the issuance thereof and mutually agree upon the appropriate manner, if any, in which to respond to the changes suggested by the audit report. If TouchTunes' audit identifies a bona fide, reasonable problem that, in TouchTunes' opinion, presents a material risk or breach of Company's obligations and representations under this Agreement, then, upon TouchTunes' request, Company shall correct such problem within a reasonable timeframe. In the event that the audit shows that Company made a material mistake in an invoice to TouchTunes, then Company will reimburse TouchTunes for all of TouchTunes' reasonable costs in connection with the conduct of the audit.

(c) Company Rights. Visits, inspections, interviews, requests, examinations, and other actions taken by TouchTunes, its agents and other persons pursuant to this Article must be preceded by reasonable notice to Company, and such actions will be conducted during normal business hours, and will be reasonably related to the deliverables or services provided under this Agreement.

(d) Retention of Records. Company shall retain and preserve all records and materials pertaining to the deliverables and services provided under this Agreement for a period of seven (7) years.

11. TERM AND TERMINATION.

(a) Term. This Agreement shall commence on the Effective Date and continue in force for a period of three (3) years unless earlier terminated in accordance with the terms and conditions hereof (**"Initial Term"**). Unless earlier terminated in accordance with the terms and conditions hereof, the Initial Term will subsequently renew for successive one (1) year periods (each, a "**Renewal Term**"), unless either party provides the other party with written notice of its desire to not renew the Agreement not less than ninety (90) days prior to the end of the Initial Term or the applicable Renewal Term. For purposes of this Agreement, the Initial Term and the Renewal Term(s) (if any) are collectively referred to as the "**Term**."

(b) Termination for Convenience. TouchTunes may terminate this Agreement for its convenience by giving Company not less than ninety (90) days prior written notice to Company and, after the first anniversary of the Effective Date, Company may terminate for its convenience by giving TouchTunes not less than 180 days prior written notice to TouchTunes. Upon such termination, absent a good faith billing dispute by TouchTunes, TouchTunes will make any payments then owed Company for Services completed by Company as of the date of termination, unless such termination is due to an act or omission of Company such as would constitute a breach of this Agreement. TouchTunes will own all intellectual property rights in the Deliverables as set forth herein.

(c) Termination after Opportunity to Cure. In addition to any other rights of termination set forth in this Agreement, either party may terminate this Agreement by giving notice to the other party if such other party fails to perform any of its obligations hereunder or otherwise breaches any term or condition herein and such failure continues for or is not cured within a period of twenty (20) working days after receipt of written notice from the non-breaching party specifying such default.

(d) Automatic Termination. Except as otherwise prohibited by law, a party shall be entitled to terminate this Agreement upon written notice if: (i) a receiver custodian. manager, judicial manager or similar officer is appointed for the other party or its property or the taking of any steps with respect to the making of such appointment; (ii) the other party makes an assignment for the benefit of its creditors; (iii) any proceedings are commenced by, for or against the other party under any bankruptcy, insolvency or debtor's relief law; (iv) the other party is liquidated or dissolved; or (v) the other party takes steps to or threatens to cease to carry on its business as a going concern.

(e) Effect of Termination. In the event TouchTunes terminates this Agreement, TouchTunes may procure, upon such terms and in such manner as TouchTunes reasonably deems appropriate services similar to the terminated Services. If such termination is due to breach by Company, Company shall reimburse TouchTunes upon demand for all additional costs incurred by TouchTunes in purchasing such similar services. Company shall continue the performance of this Agreement to the extent not terminated. If such termination is due to breach by TouchTunes, TouchTunes shall reimburse Company upon demand for any additional costs incurred by Company to terminate the Company resources then providing the Services, provided that the Company shall use reasonable efforts to mitigate, or otherwise reduce, such costs.

(f) No Damages for Termination. Neither TouchTunes nor Company shall be liable to the other or their respective Affiliates for damages of any kind, including incidental or consequential damages, on account of the termination of this Agreement (including without limitation, a termination pursuant to Section 10(b)). Company waives any right it may have to receive any compensation or reparations due to termination or expiration of this Agreement, which includes, without limitation, loss of goodwill, prospective profits or anticipated orders, or on account of any expenditures, investments, leases or commitments made by either TouchTunes or Company. The parties acknowledge that this Section 10(f) has been included as a material inducement for TouchTunes to enter into this Agreement and that TouchTunes would not have entered into this Agreement but for the limitations of liability as set forth herein.

(g) Survival. Notwithstanding anything to the contrary contained in this Agreement, any indemnity provisions set forth in this Agreement and Sections 1 (except Section l(d) which shall not survive and including Section l(c) and Section 1(g) which shall survive for the periods set forth in such subsections following expiration or termination of this Agreement), 4(c), 5(f), 6, 7, 8, 9, 10, 11(g), 14 and 15 shall survive any expiration or termination of this Agreement

12. RELATIONSHIP OF THE PARTIES. Company's and its Affiliates' relationship with TouchTunes will be that of an independent contractor. Neither Company nor any of its Affiliates will have, nor will they represent that they have, any power, right or authority to bind TouchTunes, or to assume or create any obligation or responsibility, express or implied, written or oral, on behalf of TouchTunes or in TouchTunes' name, except as herein expressly provided. Nothing stated in this Agreement shall be construed as constituting Company or any Company Affiliate, on the one hand, and TouchTunes, on the other hand, as partners or as creating the relationships of employer/employee, franchiser/franchisee, or principal/agent or principal/commercial agent between the parties in all matters relating to this Agreement, neither Company, nor any Company Affiliate, nor their employees nor agents are, or may act as, employees of TouchTunes within the meaning or application of any laws or regulations, which may impute any obligations or liabilities to TouchTunes by reason of an employment relationship. For the avoidance of doubt (and without limitation of the foregoing), Company acknowledges and agrees, on behalf of itself and its Affiliates, that Company's and Company Affiliates' employees are employees of Company and of such Affiliates, respectively, and not of TouchTunes.

13. DISASTER RECOVERY. Company will have, and will ensure that the Authorized Affiliate has, a disaster recovery plan in effect at all times. These will address Company's and Authorized Affiliate's disaster avoidance plan and contingency plans in the event phone service, computer activity, or facility power is interrupted. Company will notify TouchTunes immediately after identifying any occurrence which has interrupted or will interrupt the ability of Company to perform the Services. Company will conduct periodic tests and evaluations (and at least annually) of its and the Authorized Affiliate's disaster recovery plan to ensure expected systemic and process responsiveness from Company. Upon request, Company will make the disaster recovery plans and the annual evaluations available to TouchTunes for review.

14. INSURANCE.

(a) Authorized Affiliate Performance. Without limitation of Company's obligations under Section 1.b., Provided that the Company performs the Services solely through the Authorized Affiliate in Belarus, Company shall ensure that Authorized Affiliate at all times during the Term maintains policies of insurance (including without limitation, worker's compensation insurance): (i) in accordance with applicable laws and regulations; and that are customarily obtained by companies in Belarus that perform services similar to the Services. All such policies of insurance shall have limits and deductibles that are reasonable and adequate for Belarusian businesses involved in the performance of services similar to the Services. To the extent possible, Company shall ensure that TouchTunes and its Affiliates are named as additional insureds on all such policies.

(b) Other Performance. Prior to Company's performance of Services through any person or entity other than the Authorized Affiliate in a location outside of Belarus, Company agrees to obtain, and maintain throughout the Term, such policies of insurance (including without limitation, general liability, automobile and worker's compensation policies) with such limits, deductibles and other terms and conditions (e.g., with respect to prior notice to TouchTunes of cancellation of an such policies) as may be reasonably requested by

TouchTunes from time to time. Company shall ensure that TouchTunes and its Affiliates are named as additional insureds on all such policies.

(c) Evidence of Insurance. At the request of TouchTunes from time to time, Company shall provide TouchTunes with certificates of insurance evidencing any and all policies of insurance described in this Section 14. Company shall provide such certificates of insurance to TouchTunes in a form that is reasonably acceptable to TouchTunes.

15. GENERAL.

(a) Currency. All fees set forth herein are in U.S. dollars unless otherwise mutually agreed upon the parties in writing. All payments shall be made in U.S. dollars, unless otherwise mutually agreed upon by the parties in writing.

(b) Assignment. Company may not assign its rights or delegate its duties hereunder, either in whole or in part, without the prior written consent of TouchTunes, other than that Company may assign this Agreement in whole in connection with the sale of all or substantially all of the assets of Company of which TouchTunes receives written notice promptly following consummation of such a transaction. TouchTunes may assign its rights and/or delegate its duties under this Agreement in whole or in part, to any of its Affiliates or in connection with the sale of all or substantially all of the assets of TouchTunes, whether by way of merger, stock sale or otherwise. The provisions hereof shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns.

(c) Waiver. The waiver by TouchTunes of any breach or default by Company shall not be construed as a waiver by TouchTunes of any subsequent breach or default by Company of the same or different kind.

(d) Notices. All notices and demands hereunder shall be in writing and shall be served by personal service or by mail at the address of the receiving party set forth beneath its duly authorized representative's signature on this Agreement (or at such different address as may be designated by such party by written notice to the other party). All notices or demands shall be made by facsimile, recognized air courier (e.g., Federal Express or DHL), all charges prepaid, or by certified or registered airmail, postage prepaid, return receipt requested, and shall be deemed complete upon receipt or refusal of receipt. The designated representative of TouchTunes shall be the General Counsel of TouchTunes, and the designated authorized representative for Company shall be CEO of Company, or an equivalent representative appointed by Company and accepted by TouchTunes.

(e) Governing Law. This Agreement shall for all purposes be governed by and interpreted in accordance with the laws of the State of New York, USA, with regard to its conflicts of laws principles. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply this Agreement.

(f) Choice of Law; Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to conflicts of law provisions thereof that would apply the laws of a different jurisdiction. Both parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction and venue of the State and Federal courts located in the State of New York for any legal controversy between the parties arising in connection with this Agreement. Each party waives any objection to the exercise of jurisdiction by any of such New York courts and to the venue of any such action or proceeding in any such New York court or that such action or proceeding was brought in an inconvenient court. Notwithstanding the foregoing, any party has the right to seek interim relief necessary to preserve such party's rights under this Agreement in any court of competent jurisdiction, including those that are described in Section 15(g). In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorney's fees. So far as is permitted under applicable law, this consent to personal jurisdiction shall be self-operative and no further instrument or action, other than service or process as is permitted by New York Law, shall be necessary in order to confer jurisdiction upon Company in any such court.

(g) Enforcement. Each Party seeking interim relief or to enter or enforce any award, judgment, or order of a court may do so in any court of competent jurisdiction, including (a) the Supreme Court of the State of New York, in and for New York County, and the United States District Court for the Southern District of New York, and appellate courts from any of the preceding courts, or (b) the competent courts in Minsk, Republic of Belarus, and appellate courts from any of the preceding courts.

(h) Agent for Service of Process. Authorized Affiliate hereby appoints the Company as its agent to receive process which may be served in any proceedings arising out of or related to this Agreement. If for any reason Authorized Affiliate does not have an agent it will promptly appoint a substitute process agent and notify TouchTunes of such appointment.

(i) Severability. In the event that this Agreement is translated into any language other than English, the English language version of this Agreement shall control. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.

(j) Force Majeure. Neither TouchTunes nor Company shall be responsible for any failure to perform, except for the payment of monies, due to an unforeseen event beyond its control that occurs without the negligence of the non-performing party, including without limitation, acts of God, war, riot, terrorism, embargoes, acts of civil or military authorities, fire, floods, accidents, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather conditions. Company shall immediately give written notice to TouchTunes of any such delaying cause and shall do everything reasonably possible to resume performance. If the period of nonperformance exceeds fifteen (15) days from the receipt by TouchTunes of written notice of the force majeure event from Company, TouchTunes may terminate this Agreement with immediate effect upon written notice to Company.

(k) Equitable Relief and Cumulative Remedies. Company acknowledges that any breach or default of its obligations under this Agreement with respect to the proprietary rights or Confidential Information of TouchTunes will cause TouchTunes irreparable injury for which there are inadequate remedies at law, and therefore TouchTunes will be entitled to equitable relief (including without limitation, injunctive relief) in addition to (and without limitation of) any and all other remedies available at law, in equity under contract (including without limitation, this Agreement) or otherwise. It is agreed that the rights and remedies herein provided to TouchTunes in case of breach or default by Company of this Agreement are cumulative and without prejudice to any other rights and remedies that TouchTunes may have by reason of such default or breach by Company at law, in equity, under contract (including without limitation this Agreement) or otherwise (all of which are hereby expressly reserved).

(l) Modifications. Any modifications to this Agreement must be in writing and signed by both parties hereto. Any such modification shall be binding upon TouchTunes only if and when signed by a duly authorized officer of TouchTunes.

(m) Titles and Headings. The titles and headings in this Agreement are included for convenience only and shall not be used or otherwise considered in the interpretation of this Agreement.

(n) Counterparts. This Agreement may be signed by facsimile and in one or more counterparts, each of which shall be deemed an original and taken together shall constitute one and the same instrument.

(o) Entire Agreement. This Agreement (including without limitation, all exhibits and other attachments attached hereto) is the final, complete and exclusive agreement between the parties relating to the subject matter hereof, and supersedes all prior or contemporaneous communications relating to such subject matter. Any term or condition in any order, confirmation or other document furnished by Company before or after the Effective Date, which is in any way inconsistent with or in addition to the terms and conditions set forth in this Agreement is hereby expressly rejected, and TouchTunes' acceptance of any offer or order of Company is hereby expressly made in reliance on Company's assent to all terms and conditions hereof. TouchTunes' failure to object to any term or condition in any written or oral communication from Company, whether delivered before or after the Effective Date, shall not constitute an acceptance thereof or a waiver of any term or condition hereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The parties hereto have caused their duly authorized representatives to execute this Agreement as of the Effective Date.

TOUCHTUNES MUSIC CORPORATION

By: [signature]
Name: PATRICK C BARAZ
Title: CFO

Address: TouchTunes Music Corporation
850 Third Avenue, Suite 15C
New York, NY 10022
Attn: General Counsel
Telephone: (212) 991-6540
Fax number: (877) 712-8072

DINEBYTE, LLC

By: [signature]
Name: Anatoly Tikhman
Title: CEO

Address:
DineByte, LLC
1136 Tanglewood Way
San Mateo, CA 94403
Attn: Anatoly Tikhman
Telephone: 650-759-4100
Fax number: 650-228-1220

Exhibit A

Rates

Architect	$6,000 - $6,500
Lead developer	$5,900 - $6,400
Senior developer	$4,700- $5,800
Developer	$3,500 - $4,200
Lead QA	$4,200 - $4,800
Senior QA	$3,300 - $3,900
QA	$2,800 - $3,200
Project Manager	$5,500 - $6,300

Exhibit B

Hired Personnel as of date of the Agreement

	TITLE	*START DATE*	*INVOICE AMOUNT*
ALEXEY CHUMAKOV	Lead Developer	7/9/2013	$ 5,875
EVGENY SHALIOV	Senior Developer	6/24/2013	$ 4,950
IVAN ZHAMOIDSIN	Senior Developer	6/24/2013	$ 4,750
DMITRY ANDRONCHIK	Senior Developer	6/19/2013	$ 5,750
ALEXANDER OKUNEVICH	Senior Developer	6/19/2013	$ 4,950
ALIAKSANDR BARKUN	Senior Developer	6/19/2013	$ 4,850
ALEXEY TSYVUNCHYK	Lead Developer/Architect	6/10/2013	$ 6,375
DANIIL LUKASHEVICH	Lead Developer	6/10/2013	$ 6,000
EVGENY RUSAK	Senior Developer	6/10/2013	$ 4,950
SIARHEI KRAUCHENIA	Senior Developer	6/10/2013	$ 5,625
ARTSIOM ANISKOU	Senior Developer	6/10/2013	$ 4,950

EXHIBIT B

DineByte

400 South El Camino Real, Suite 400
San Mateo, CA 94402

April 15, 2014
Via Mail

TouchTunes Music Corporation
850 Third Avenue, Suite 150
New York, NY 1022
Attn: General Counsel

Re: DineByte, LLC; TouchTunes Music Corporation
Consent for Assignment

Dear Sir or Madam:

In connection with that certain Professional Services Agreement by and between TouchTunes Music Corporation (the "Company") and DineByte, LLC ("DineByte"), dated June 10, 2013 (the "Agreement"), I am writing to notify you of a proposed merger (the "Merger") of DineByte with and into [Exadel, Inc.] ("Exadel"). As a result of the Merger, the separate corporate existence of DineByte will cease, and Exadel shall continue as the surviving corporation of the Merger. I am also writing to request your consent with respect to the Agreement.

In connection with the Merger, all of DineByte's rights and obligations under the Agreement automatically will be assigned to and assumed by Exadel, and Exadel has agreed to assume such rights and obligations. Pursuant to Section 15(b) of the Agreement, such assignment and assumption of DineByte's rights and responsibilities under the Agreement in the Merger may require your written consent.

Accordingly, we request that you consent to the assignment to and assumption by Exadel of DineByte's rights and responsibility under the Agreement by countersigning this letter and returning it to me by email at [email] or by facsimile to 650-228-1220. We request that you return the countersigned letter to me as soon as possible.

If you have any questions, please do not hesitate to contact me at 650-759-4100.

Very truly yours,

DINEBYTE, LLC

[signature]

Anatoly Tikhman
Chief Executive Officer

The undersigned hereby acknowledges the Merger, and consents to the assignment to and assumption by Exadel of all contractual rights and obligations of DineByte under the Agreement.

TOUCHTUNES MUSIC CORPORATION

By: [signature]

Its: SVP

Dated: 4.21.14

EXHIBIT C

tanjarine
A TouchTunes Company

Facsimile Message

To: Anatoly Tikhman	**From:** Pam Schoenfeld (212-991-6535)
Fax: 650-228-1220	**Date:** 04.09.15
# of Pages: 2	**Re:** Termination Notice

Please see attached.

tanjarine
A TouchTunes Company

April 9, 2015

VIA FACSIMILE AND OVERNIGHT COURIER
Exadel, Inc.
1136 Tanglewood Way
San Mateo, CA 94403
Attn: Anatoly Tikhman
Fax number: 650-228-1220

Re: Termination Notice of Professional Services Agreement

Ladies and Gentlemen:

Reference is hereby made to the Professional Services Agreement, effective as of June 10, 2013 (including any statements of work, exhibits and/or addenda, the "Agreement"), between TouchTunes Music Corporation ("TouchTunes") and Exadel, Inc., as successor to DineByte, LLC ("Company").

Pursuant to Section 2(g) of the Agreement, TouchTunes is hereby providing written notice to Company that it is terminating each of the current resources providing services under the Agreement, effective as of twenty-eight (28) days from the date hereof (i.e. May 7, 2015).

In addition, pursuant to Section 11(b) of the Agreement, TouchTunes is hereby providing written notice to Company that it is terminating the Agreement, effective as of ninety (90) days from the date hereof (i.e. July 8, 2015).

Should you have any questions, please do not hesitate to contact Pam Schoenfeld at 212-991-6535.

Sincerely,

TouchTunes Music Corporation

By: [signature]
Name: Pam Schoenfeld
Title: SVP